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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 22-482-GW

Plaintiff,

JOINT STATEMENT RE EXHIBITS
SUBMITTED IN CAMERA PERTAINING
TO DEFENSE MOTION IN LIMINE NO.

v

JERRY NEHL BOYLAN

Trial Date: Oct. 24, 2023
Hearing Time: 8:30 a.m.
Place: Courtroom 9D

Defendant.

Plaintiff United States of America, by and through its counsel of record, the United States Attorney for the Central District of California and Assistant United States Attorneys Mark A. Williams, Matthew W. O'Brien, Brian R. Faerstein, and Juan M. Rodriguez, and

1 defendant JERRY NEHL BOYLAN, both individually and through his
2 counsel of record, Georgina Wakefield, Gabriela Rivera, Julia
3 Deixler, and Joshua Weiss, hereby submit this joint statement
4 regarding the exhibits that are the subject of defendant's Motion in
5 Limine No. 9 ("MIL No. 9," Dkt. No. 237) and which remain in dispute
6 between the parties. (The government's opposition to MIL No. 9 is
7 Dkt. No. 249.)

8 Pursuant to the Court's order during the October 23, 2023
9 pretrial conference, the parties met and conferred regarding the
10 defendant's objections to exhibits set forth in its MIL No. 9 as
11 well as on a potential factual stipulation with respect to the cause
12 of death of the 34 victims in this case. The parties have reached
13 agreement in principle on a stipulation regarding cause of death.
14 Subject to the parties finalizing and filing that stipulation, the
15 parties also have reached agreement on a number of other pending
16 objections that are the subject of MIL No. 9.

17 Specifically, subject to finalization of the cause of death
18 stipulation, the government will agree not to offer any of the
19 hundreds of autopsy photographs that were taken by the Santa Barbara
20 County Sheriff's Office, Coroner's Bureau ("Coroner's Bureau") of
21 the 34 victims who died in the *Conception* fire (marked as Government
22 Exhibit numbers 298, 298A, 298B, 298C, 298D, and 299). However, the
23 government still will elicit testimony from Deputy-Coroner witnesses
24 from the Coroner's Bureau about their observations while conducting
25 autopsies of the victims of the fire. The government also will not
26 offer clips from an underwater dive video (taken by a law
27 enforcement diver) that show bodies recovered from the wreckage of
28

1 the *Conception*. However, the government still will offer clips from
2 the dive video footage that show the wreckage of the *Conception* (but
3 no bodies) and will elicit testimony from the diver about his
4 observations regarding the bodies that he saw within the wreckage.
5 In addition, the defense agrees to withdraw its objections to a
6 number of photo and video exhibits that were taken by victims of the
7 *Conception* fire during the fatal dive trip (prior to the fire),
8 specifically, Exhibit numbers 151, 152, 154, 155, 156, 157, 159, 162
9 (played without sound), 162A-G, 163, 164 (marked for identification
10 only), 165, 167, 175, 176 (marked for identification only), 177,
11 178, 179, 181, 182 (marked for identification only), 183, 184, 185,
12 188, 189, and 190.

13 The parties have not reached agreement with respect to certain
14 other photo and video exhibits taken by victims of the *Conception*
15 fire during the fatal dive trip (also prior to the fire),
16 specifically, Exhibit numbers 153 (grounds for objection: FRE
17 404(b), 401, 403); 158 (401, 403); 160 (401, 403, and duplicative of
18 155 and 156); 166 (duplicative of 165 and 167); 168 (401, 403,
19 duplicative); 169 (401, 403, duplicative); 170 (duplicative of 165
20 and 167); 171 (duplicative of 160); 172 (duplicative of 160); 173
21 (duplicative of 160); 174 (401, 403, duplicative of 165 and 167);
22 and for exhibit number 180, the defense's position remains the same
23 as its written objection, i.e., the defense not object to its
24 admission but will ask the Court to limit the number of times it may
25 be played and prohibit it from going back with the jury during
26 deliberation.

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1 Pursuant to the Court's order, the parties are lodging in
2 camera with the Court copies of these remaining exhibits that are in
3 dispute and remain the subject of the defense's MIL No. 9. The
4 parties will be prepared to take the objections to these exhibits up
5 with the Court.

6 Respectfully submitted,

7 Dated: October 23, 2023

E. MARTIN ESTRADA
United States Attorney

MACK E. JENKINS
Assistant United States Attorney

10 /s/
11 MARK A. WILLIAMS
MATTHEW W. O'BRIEN
BRIAN R. FAERSTEIN
JUAN M. RODRIGUEZ
13 Assistant United States Attorneys
14 Attorneys for Plaintiff
UNITED STATES OF AMERICA

15 Dated: October 23, 2023

16 /s/ with email authorization
17 GEORGINA WAKEFIELD
GABRIELA RIVERA
18 JULIA DEIXLER
JOSHUA WEISS
19 Attorneys for Defendant JERRY NEHL
BOYLAN